

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: ETHICON, INC.
PELVIC REPAIR SYSTEMS
PRODUCT LIABILITY LITIGATION

MDL No. 2327

THIS DOCUMENT RELATES TO ALL CASES

PRETRIAL ORDER # 207
(Ethicon's Motions for Protective Order)

Ethicon, Inc. and Johnson & Johnson (collectively referred to as "Ethicon") filed two Motions for Protective Order to quash cross-notice of deposition. (ECF Nos. 1786, 1805). In the motions, Ethicon requests orders preventing Plaintiffs from cross-noticing in this multidistrict litigation expert depositions scheduled in transvaginal mesh litigation pending in Pennsylvania. The issue was briefed, and the undersigned conducted a telephonic hearing on December 15, 2015. After considering the parties' positions, the court **DENIES** the motions for the reasons stated during the hearing and **ORDERS** as follows:

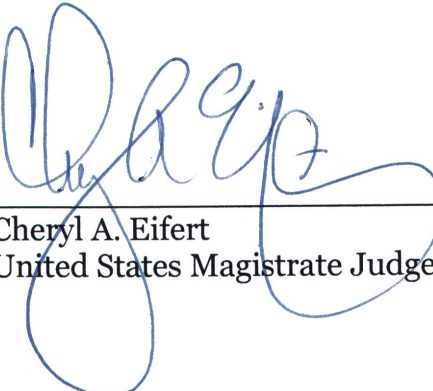
For each individual expert witness whose deposition is cross-noticed in the Wave 1 and Wave 2 cases, Plaintiffs shall designate an existing report or reports, or provide a new report, prepared by the expert witness pursuant to Fed. R. Civ. P. 26(a)(2)(B). The report or reports shall be identified and/or produced reasonably in advance of the expert witness' deposition.

If an expert witness, whose deposition was noticed in other litigation and cross-

noticed in the MDL, is subsequently identified in the MDL as an expert in cases involving an Ethicon product **not** addressed in the expert's previously produced report(s), then Ethicon shall be permitted to depose the expert on his/her opinions regarding the additional product, and a separate report addressing the product shall be provided reasonably in advance of the deposition. Ethicon is also granted leave to file a motion seeking an order allowing a second or supplemental deposition of an expert witness whose deposition was noticed in Pennsylvania litigation and cross-noticed in the MDL. However, a motion for a second or supplemental deposition shall be granted only for good cause shown.

The court **DIRECTS** the Clerk to file a copy of this order in 2:12-md-02327 and it shall apply to each member related case previously transferred to, removed to, or filed in this district, which includes counsel in all member cases up to and including civil action number 2:15-cv-16172. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at <http://www.wvsd.uscourts.gov>.

ENTERED: December 16, 2015



Cheryl A. Eifert
United States Magistrate Judge